



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,607	03/31/2004	Jill B. Farmer	23531/00402	5453

7590 12/21/2004
Charles S. Cotropia
Suite 3400
717 N. Harwood
Dallas, TX 75201

EXAMINER

FLOOD, MICHELE C

ART UNIT	PAPER NUMBER
----------	--------------

1654

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/814,607

Applicant(s)

FARMAR ET AL.

Examiner

Michele Flood

Art Unit

1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I, Claims 1-26, in the reply filed on November 2, 2004 is acknowledged.

Claims 1-26 are under examination.

Specification/Abstract

The listing of references in the specification [0051] to [0085] is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

The abstract 1 recites the phrase, "A cabbage extract composition has now been found", in line 1. It is suggested that the phrase be deleted from the language of the abstract. Once the determination of the novelty of a claimed invention has been established and the disclosure of the invention made public and/or patented, the claimed invention is no longer novel or newly found, since the scope of the invention no longer embraces what is considered newly found or "now been found". Thus, the incorporation of the phrase into the language of the abstract is not appropriate. Appropriate correction is required.

Art Unit: 1654

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 6, 11, 16, and 20 recite the limitation "the affected area of said woman's breast". There is a lack of antecedent basis for this limitation in the claims.

Applicant may overcome the rejection by replacing "the" with an.

Claim 5 recites the limitation "the step of binding". There is a lack of antecedent basis for this limitation in the claim. Applicant may overcome the rejection by replacing "the" with a.

All other cited claims depend directly or indirectly from rejected claims and are, therefore, also, rejected under U.S.C. 112, second paragraph for the reasons set forth above.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 1654

Claim 26 is rejected under 35 U.S.C. 102(b) as being anticipated by Vigdorovich (N).

Applicant claims a formulation for preventing or treating breast engorgement comprising extract of a vegetable leaf selected from the group consisting of *Brassica oleracea capitata* and *Brassica campestris Pekinensis* in an amount comprising greater than 1% by weight of said formulation and an acceptable topical carrier.

Vigdorovich teaches a composition comprising a cabbage leaf extract in liquid (water) or powder form. Vigdorovich does not expressly teach the reference composition as a formulation for preventing or treating breast engorgement. However, the composition taught by Vigdorovich comprises one and the same ingredient in the same percentage amounts, as instantly claimed by Applicant. Therefore the claim-designated functional effect for preventing or treating breast engorgement is inherent to the composition taught by Vigdorovich. Moreover, there is nothing in the reference formulation to preclude topical use thereof.

The reference anticipates the claimed subject matter.

Claims 26 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 4006768 A (O).

Applicant's claimed invention was set forth above. Applicant further claims the formulation of Claim 26, wherein said formulation comprises an amount of about 1.1% to about 25% cabbage leaf extract by weight of the final formulation.

Art Unit: 1654

The reference foreign patent teaches a topical formulation comprising 10-80% of cabbage leaf juice/extract, 10-80% of olive oil and an emulsifier. '768 further teaches that the reference composition is ideally in the form of a salve that can be wrapped in tissues and used overnight as a compress to alleviate pain, migraine, headache, inflammation and swelling. The reference foreign patent does not expressly teach the reference composition as a formulation for preventing or treating breast engorgement. However, the composition taught by '768 comprises one and the same ingredient in the same percentage amounts, as instantly claimed by Applicant. Therefore the claim-designated functional effect is inherent to the composition taught by '768.

The reference anticipates the claimed subject matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6-8, 11-13, 16-18, 20-23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts et al. (U) in view of DE 4006768 A (O), and further in view of Rosier (V).

Applicant claims a method for treating a postpartum woman to encourage the cessation of lactation, comprising applying a composition comprising an amount greater than 1% cabbage leaf extract by weight of the final composition to an affected of said

Art Unit: 1654

woman's breast repeatedly each day, commencing on the date of delivery and extending until lactation subsides. Applicant further claims the method of Claim 1, wherein said composition comprises an amount of about 1.1% to about 25% cabbage leaf extract by weight of the final composition; wherein said composition comprises 5% cabbage leaf extract by weight of the final composition. Applicant claims a method for treating a lactating woman to encourage the cessation of lactation, comprising applying a composition comprising an amount greater than 1% cabbage leaf extract by weight of the final composition to an affected of said woman's breast repeatedly each day, commencing on a desired dated and extending until lactation subsides. Applicant claims a method for treating a lactating woman in need of a treatment for or prevention of breast engorgement during lactation cessation, comprising applying a composition comprising an amount greater than 1% cabbage leaf extract by weight of the final composition to an affected of said woman's breast repeatedly each day, commencing on a desired date and extending until lactation subsides. Applicant claims a method for treating a lactating woman for symptoms of breast engorgement, comprising applying one application of a composition comprising an amount greater than 1% cabbage leaf extract by weight of the final composition to an affected of said woman's breast, commencing upon appearance of said symptoms. Applicant claims a method for preventing symptoms of breast engorgement in a postpartum woman's breasts comprising applying one application of a composition comprising an amount of greater than 1% cabbage leaf extract by weight of the final composition to said woman's breasts commencing on the day milk comes in. Applicant further claims methods of treatment,

Art Unit: 1654

wherein said composition comprises 5% cabbage leaf extract, 0.5% grape seed extract, and 0.5% cucumber extract by weight of the final composition. Applicant further claims methods of treatment of Claims 1, 2, 3, 4, 6, 7, 8, 9, 11, 12, 13 or 14, further comprising binding the breasts after said composition is applied. Applicant further claims the method of treatment of Claim 16, 17, 18 or 19, further comprising applying said composition to an affected area of said woman's breasts once per day until symptoms subside. Applicant further claims the method of treatment of Claim 21, 22, 23 or 24, further comprising applying said composition to said woman's breasts once per day as symptoms appear.

Roberts discloses the results of double-blind experiment with a pretest/posttest design, involving 21 participants that received a cream containing 1% cabbage leaf extract and 18 participants that received a placebo cream. The purpose of the study was to compare the effectiveness of the cabbage leaf extract and the placebo creams in treating breast engorgement, or hard, painful, warm breasts by applying the creams to the breasts of postpartum women. Based on the findings of the study, Roberts reports that the placebo group received equal relief to the treated group with the two groups showing no significant difference on all outcome measures upon topical application of the test creams to the breasts of postpartum women. On page 234, Column 1, Roberts does teach, "Mothers from both groups perceived the creams as having some efficacy (Table 4). The creams did not appear to have any effect on the chest circumference but all other outcome measures were statistically significant."

The teachings of Roberts are set forth above. Roberts does not teach a method for treating a postpartum woman to encourage the cessation of lactation or treating and/or preventing breast engorgement during lactation cessation or treating the symptoms of breast engorgement in a lactating woman or preventing symptoms of breast engorgement in a postpartum woman's breast comprising applying an amount of greater than 1% cabbage leaf extract by weight of the final composition to an affected woman's breast to provide the instantly claimed beneficial functional effects. However, it would have been obvious to one of ordinary skill in the art to optimize the method taught by Roberts by increasing the percentage amounts of the cabbage leaf extract contained therein the cabbage leaf extract used in the method taught by Roberts to provide the instantly claimed methods of treatment because at the time the invention was made it was known in the art that compositions comprising higher percentage amounts of cabbage leaf extract than the cabbage leaf extract taught by Roberts alleviated symptoms associated with breast engorgement. For instance, DE 4006768 A teaches a topical formulation comprising 10-80% of cabbage leaf juice/extract, 10-80% of olive oil and an emulsifier. '768 further teaches that the reference composition is ideally in the form of a salve that can be wrapped in tissues and used overnight as a compress to alleviate pain, migraine, headache, inflammation and swelling. At the time the invention was made, one of ordinary skill in the art would have been motivated and one would have had a reasonable expectation of success to optimize the method of treatment taught by Roberts by increasing the percentage amounts of the cabbage leaf contained therein the composition for use of treating breast engorgement taught by

Art Unit: 1654

Roberts because '768 teaches that compositions comprising higher percentage amounts of cabbage leaf extract can alleviate pain, inflammation and swelling, as well as headaches; and, Roberts suggests that while cabbage leaves have been a popular treatment and more effective treatment for relieving breast engorgement in women than the referenced cream comprising cabbage leaf extract, "This difference in effectiveness between cabbage leaves and extract might be explained by a failure of the extract to contain the potentially active chemical in the cabbage leaves. Other possible explanations are that such an active agent is a breakdown product of the decomposition of cabbage leaves in situ, or the concentration of cabbage leaf extract in the cream was too low", on page 235, Column 1, lines 1-15. Thus, the effective varying of the percentage amounts of the cabbage leaf extract used in the instantly claimed methods of treatments would have been a routine matter of experimentation for one of ordinary skill in the art at the time the invention was made.

Therefore, the claimed methods of treatment are deemed no more than the optimization of a result-effect variable, given that at the time the invention was made the '768 patent teaches that higher percentage amounts of cabbage leaf extract in a topical composition treats symptoms associated with breast engorgement and Roberts provides the suggestion and motivation to increase the amounts of cabbage leaf extract contained therein in a composition for applying to the breasts of women for encouraging cessation of lactation, treating breast engorgement and alleviating symptoms of breast engorgement; and, given that at the time the invention was made the traditional use of

Art Unit: 1654

applying cabbage leaves to the breasts of postpartum to provide the claimed functional effect was old and well-known in the art of breast-feeding or weaning of the breasts.

With regard to the claim limitations of Claims 1, 6, 11, 16, 20, 21 and 25 wherein Applicant claims methods of treatment for the frequency and the onset for the application of the claim-designated composition, it also would have been obvious to one of ordinary skill in the art and one would have been motivated and one would have had a reasonable expectation of success to optimize the method of treatment taught by Roberts to provide the instantly claimed methods of treatment by varying the times for the onset of the application of a composition comprising an effective amount of cabbage leaf extract to the breasts of women and/or the frequency of the application of the claim-designated composition because at the time the invention was made Rosier, like Roberts, teaches use of cabbage leaves is an ancient and well known remedy for the relief of breast problems associated with breast engorgement and lactation. Rosier also teaches that suppression, encouragement and prevention of lactation and breast engorgement can be achieved by varying the times for the onset of the application of cabbage leaves to the breasts of postpartum women and the frequency for the times of application thereof by inspecting the breasts for milk flow to ascertain whether desired conditions have been achieved, on page 30, Column 2, under "*Application*". Also see "Cases 1-9", on pages 28-30. As Rosier teaches that the efficacy of treating conditions of breast engorgement with compositions comprising cabbage leaf is a result-effect variable depending on the onset of the application of cabbage leaf containing compositions, and the frequency for the application thereof to provide a desired effect

Art Unit: 1654

for suppressing, encouraging and prevention of lactation, and treating symptoms associated with breast engorgement, it would have been *prima facie* obvious to one of ordinary skill in the art to optimize the method of treatment taught by Roberts and '768 to provide the instantly claimed methods of treatment by varying the times for the onset of the application of a composition comprising an effective amount of cabbage leaf extract to the breasts of women and/or the frequency of the application of the claim-designated composition, given the teachings of Rosier before him.

From the teachings of the references, it is apparent that one of ordinary skill in the art would have had a reasonable expectation of success in producing the claimed invention. Therefore, the invention as a whole was *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, as evidenced by the references, especially in the absence of evidence to the contrary

Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts et al. (U), DE 4006768 A (O) and Rosier (V) in view of Berdal (P), Cals-Grieson (*A), Meyer (Q) and Manning (*B).

Applicant's claimed invention of Claims 1-3, 6-8, 11-13, 16-18, 20-23 and 25 was set forth above. Applicant further claims method of treatments, wherein said composition comprises 5% cabbage leaf extract, 0.5% grape seed extract, and 0.5% cucumber extract by weight of the final composition. Applicant further claims the method of Claims 1, 2, 3, 4, 11, 12, 13 or 14, further comprising binding the breasts after said composition is applied to the breasts.

The combined teachings of Roberts, '768 and Rosier were set forth immediately above. The combined teachings of Roberts, '768 and Rosier teach the instantly claimed method of treatments except for the instantly claimed ingredients and process step. However, it would have been obvious to one of ordinary skill in the art to add the instantly claimed ingredients and process step to the method of treatments taught by the combined teachings of the aforementioned references to provide the instantly claimed invention because at the time the invention was made grape seed extract and cucumber extract were known to be beneficial in the making of compositions for topical application to the skin, as evidenced by the teachings of Berdal, Cals-Grieson and Meyer; and, binding of the breasts of postpartum woman was known to be beneficial for treatment of breast engorgement during lactation cessation, as evidenced by the teachings of Manning. Firstly, Berdal teaches a composition comprising an extract of *Vitis vinifera* that has vasodilator or vasculoprotecting activity. Cals-Grieson also teaches a composition comprising an effective amount of an extract of *Vitis vinifera* and a physiologically acceptable medium, wherein the amount of the plant extract inhibits NO-synthase, particularly of the skin. Cal-Grieson further teaches that the extract of *Vitis vinifera* can be used in the making of topical compositions that inhibit degradation and/or destruction of cells, apoptotic processes of skin cells, vasodilation, inflammatory processes of the skin, intrinsic and/or extrinsic skin aging, contact hypersensitivity reactions and/or allergic manifestations and/or the immune response, and stimulates lipolysis and moisturization of the skin, etc. Secondly, Meyer teaches a topical composition in the form of an oil for night application or a day cream comprising a

Art Unit: 1654

cucumber extract. Meyer further teaches that application of the reference composition combats skin ageing by improving vasodilatation and blood circulation. Thirdly, Manning teaches a method for compressing the breasts against the chest of a female to alleviate discomfort associated with post-partum engorgement comprising binding the breast with a breast wrap. At the time the invention was made, one of ordinary skill in the art would have been motivated and one would have had a reasonable expectation of success to add the instantly claimed ingredients and process step of binding the breasts after application of the claim-designated composition to the methods of treatment taught by the combined teachings of Roberts, '768 and Rosier to provide the instantly claimed methods of treatment because Berdal teaches that *Vitis vinifera* extract has vasodilatory and/or vasculoprotective activity, and when combined with other plant extracts, such as *Ginkgo biloba*, has cytoprotective effect and improves haemodynamic conditions and increases cell nutrient assimilation capacity; Cal-Grieson teaches effective amounts of *Vitis vinifera* extract can be incorporated into various topical compositions for the skin having the beneficial functional effect as a NO-synthase inhibitor, particularly for disease-conditions related to the skin, as set forth in the claims; Meyer teaches that compositions comprising cucumber extract reduces swelling, pain, inflammation, and treats headaches; and, in Column 1, lines 20-27, Manning teaches that both nursing and non-nursing women traditionally turn to binding of the breasts to reduce the pain and leakage associated with breast engorgement, and to alleviate engorgement during the transition period at conclusions of breast-feeding.

Accordingly, the claimed invention was *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, especially in the absence of evidence to the contrary.

Claims 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 4006768 A (N) in view of Berdal (P), Cals-Grieson (*A) and Meyer (Q).

Applicant's claimed invention of Claims 26 and 27 was set forth above. Applicant further claims the formulation of Claim 26, wherein said formulation comprises 5% cabbage leaf extract by weight of the final formulation; wherein said formulation comprises 5% cabbage leaf extract, 0.5% grape seed extract, and 0.5% cucumber extract of the final formulation.

The teachings of DE 4006768 A were set forth above. DE 4006768 A teaches a topical composition comprising cabbage leaf extract except for the instantly claimed ingredients. However, it would have been obvious to one of ordinary skill in the art to add grape seed extract and cucumber extract to the composition taught by DE 4006768 A to provide the instantly claimed composition because at the time the invention was the instantly claimed ingredients were known in the art for their beneficial functional effect as evidenced by the teachings of Berdal, Cals-Grieson and Meyer. Firstly, Berdal teaches a composition comprising an extract of *Vitis vinifera* that has vasodilator or vasculoprotecting activity. Cals-Grieson also teaches a composition comprising an effective amount of an extract of *Vitis vinifera* and a physiologically acceptable medium, wherein the amount of the plant extract inhibits NO-synthase, particularly of the skin.

Art Unit: 1654

Cal-Grieson further teaches that the extract of *Vitis vinifera* can be used in the making of topical compositions that inhibit degradation and/or destruction of cells, apoptotic processes of skin cells, vasodilation, inflammatory processes of the skin, intrinsic and/or extrinsic skin aging, contact hypersensitivity reactions and/or allergic manifestations and/or the immune response, and stimulates lipolysis and moisturization of the skin, etc. Secondly, Meyer teaches a topical composition in the form of an oil for night application or a day cream comprising a cucumber extract. Meyer further teaches that application of the reference composition combats skin ageing by improving vasodilatation and blood circulation. At the time the invention was made, one of ordinary skill in the art would have been motivated and one would have had a reasonable expectation of success to add the instantly claimed ingredients to the composition taught by '768 to provide the instantly claimed topical formulation because Berdal teaches that *Vitis vinifera* extract has vasodilatory and/or vasculoprotective activity, and when combined with other plant extracts, such as *Gingko biloba*, has cytoprotective effect and improves haemodynamic conditions and increases cell nutrient assimilation capacity; Cal-Grieson teaches effective amounts of *Vitis vinifera* extract can be incorporated into various topical compositions for the skin having the beneficial functional effect as a NO-synthase inhibitor, particularly for disease-conditions related to the skin, as set forth in the claims; Meyer teaches that compositions comprising cucumber extract reduces swelling, pain, inflammation, and treats headaches; and, '768 teaches that topical application of a cabbage leaf extract is useful in the treatment of conditions associated with pain, migraine, headache, inflammation and swelling.

Moreover, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add any of the claimed ingredients in the making of the claimed composition because it is well known that its *prima facie* obvious to combine two or more ingredients each of which is taught by the prior art to be useful for the same purpose in order to form a third composition which is useful for the same purpose. The idea for combining them flows logically from their having been used individually in the prior art. *In re Pinten*, 459 F. 2d 1053, 173 USPQ 801 (CCPA 1972); *In re Susi*, 58 CCPA 1074, 1079-80; 440 F.2d 442, 445; 169 USPQ 423, 426 (1971); *In re Crockett*, 47 CCPA 1018, 1020-21; 279 F.2d 274, 276-277; 126 USPQ 186, 188 (1960).

As each of the references indicate that the various proportions and amounts of the ingredients used in the claimed composition or the claimed composition/pharmaceutical combinations are result variables, they would have been routinely optimized by one of ordinary skill in the art in practicing the invention disclosed by each of the references.

From the teachings of the references, it is apparent that one of ordinary skill in the art would have had a reasonable expectation of success in producing the claimed invention. Therefore, the invention as a whole was *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, as evidenced by the references, especially in the absence of evidence to the contrary.

* Applicant is advised that the cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web

Cabbage or Napa or Nappa or Wong Bok or Won Bok or Celery Cabbage or Chinese Leaves or Pe-Tsai or Michihli or Heading Chinese cabbage or Bai Cai or Da Bai Cai or pak choy or bak choy or bak choi or brassica or drumhead or savoy or celery mustard

Bok choy = celery mustard

Art Unit: 1654

site (www.uspto.gov), from the Office of Public Records and from commercial sources. Should you receive inquiries about the use of the Office's PAIR system, applicants may be referred to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Flood whose telephone number is 571-272-0964. The examiner can normally be reached on 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michele C. Flood
MICHELE FLOOD
PATENT EXAMINER

MCF
December 20, 2004